

Appl. No. 10/656,489  
Docket No. 9355  
Amdt. dated 29 January 2007  
Reply to Office Action mailed on 1 November 2006  
Customer No. 27752

## REMARKS

### Claim Status

Claims 1-7, 10, 12-17 and 20 are pending in the present application. No additional claims fee is believed to be due.

### Rejection Under 35 U.S.C. §103(a) Over Taylor et al. (U.S. 6,258,075) in view of Poncy et al. (4,027,673)

Claims 1-7, 10, 12-17 and 20 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Taylor et al. in view of Poncy et al.

With respect to claims 1-7, 10, 12-17 and 20 and obviousness: Applicants respectfully traverse the rejection of claims 1-7, 10, 12-17 and 20 as the cited references do not establish a *prima facie* case of obviousness. As stated in the MPEP §2143, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Further, the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

### 1. No suggestion or motivation to modify Taylor et al. in light of reference teachings

As mentioned above and noted in the Office Action, Taylor et al. fails to disclose or suggest a catamenial tampon which comprises a primary absorbent member having an

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insertion end, a withdrawal end and an outer surface, and a secondary absorbent member attached to the outer surface of the primary absorbent member proximate to said withdrawal end of said primary absorbent member, wherein the withdrawal end of the primary absorbent member comprises a finger indent.

The Office Action states on Page 3 that, "Poncy discloses a tampon, as shown in figure 2, comprising a finger indent providing a space for the finger to be inserted in the tampon for easy insertion, as described in column 2, lines 47-59." Applicants respectfully disagree with this statement. The text of Poncy et al. cited in the Office Action discloses a foam jacket, which encloses the absorptive core and extends below the absorptive core as a cylindrical skirt, which is open to the absorptive core so that the user's finger may be inserted into the skirt in contact with the non-compressible core. Therefore, in contrast to the catamenial tampon of the present invention, which comprises a primary absorbent member having a finger indent, Poncy et al. discloses a tampon with an absorptive core that is surrounded with a foam jacket. The foam jacket does not enclose the absorptive core at the bottom thereof, but extends below it in a cylindrical skirt. (Col. 3, Lines 24-26) Poncy et al. does not disclose any modifications to the absorptive core such as a finger indent, but rather discloses that the absorptive core is formed from a conventional junior sized tampon such as those available commercially under the trademark "Pursette" or "Carefree". A skirt formed from a foam outer layer or jacket is not a modification to a primary absorbent member, such as a finger indent.

Neither, Taylor et al. or Poncy et al. teach, disclose or otherwise suggest the catamenial tampon of the present invention, wherein the withdrawal end of the primary absorbent member comprises a finger indent. There can be, therefore, no suggestion to modify Taylor et al. to have the claimed finger indent in the withdrawal end of the primary absorbent member.

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2. No teaching or suggestion of all the claim limitations

The claimed invention is directed to a catamenial tampon which comprises a primary absorbent member having an insertion end, a withdrawal end and an outer surface, and a secondary absorbent member attached to the outer surface of the primary absorbent member proximate to said withdrawal end of said primary absorbent member, wherein the withdrawal end of the primary absorbent member comprises a finger indent. These elements are not found in the cited references, either singly or in combination.

For the reasons above, therefore Applicants respectfully submit that the Office Action fails to make out a *prima facie* case of obviousness for Claims 1-7, 10, 12-17 and 20.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejection under 35 U.S.C. §103. Early and favorable action in the case is respectfully requested.

This response represents an earnest effort to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1-7, 10, 12-17 and 20 is respectfully requested.

Respectfully submitted,

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